



Yavapai County Attorney

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SHEILA POLK
Yavapai County Attorney

August 2, 2010

Paul Ahler
Chief Deputy
Maricopa County Attorney's Office
301 West Jefferson, Suite 800
Phoenix, AZ 85003

Re: MCSO Matters handled by Yavapai County Attorney

Dear Mr. Ahler:

Per your request, set forth below is a summary of my contacts with the Maricopa County Sheriff's Office in connection with several matters that I accepted from former Maricopa County Attorney Andrew Thomas. To the extent that the summaries below involve grand jury matters, I am providing the information to you in the discharge of my official duties pursuant to A.R.S. § 13-2812.

On April 1, 2009, Mr. Thomas called me and asked that I handle the State v. Stapley matter, CR2008 009242-001, and two related matters, including a then-pending Motion to Controvert Search Warrant in the Wolfswinkel matter. He also requested that we handle all criminal investigations by the public corruption investigative unit at MCSO involving the Maricopa County Board of Supervisors or county management. I and my deputies served in that capacity until October 5, 2009, at which time Mr. Thomas called me and requested that I return all the matters to him with the exception of the Stapley appeal pending in the Court of Appeals, Division One, No. 1-CA-CR 09-0682. Oral argument in the appeal is scheduled for August 24, 2010, at 9:30 a.m. and is being handled by Mel Bowers, Special Deputy Yavapai County Attorney. On October 6, 2009, I sent a letter to Mr. Thomas and returned the matters as requested. My letter to Mr. Thomas is attached.

"Court Tower" Investigation and "Zone II" Matter

Very early in our relationship with MCSO, Chief Deputy Hendershott requested of YCA Chief Deputy Dennis McGrane that my office issue a grand jury subpoena to mirror the hard drive of the Maricopa County computer system to preserve emails and records from destruction, and asked that a special master be appointed to review these records. We were aware that the emails were already the subject of litigation in Maricopa County. We declined to issue the requested grand jury subpoena and told Deputy Hendershott that we would not get involved in

this issue.

At our meeting with MCSO on June 16, 2009 (described below), the "Zone II" matter was briefly discussed. We were told that MCSO was looking for any security leaks and criminal acts due to the fact that Maricopa County had seized control of their server. We told them we would not get involved in this issue as no evidence of any criminal act had been presented to us and civil litigation dealing with this issue was pending.

On June 17, 2009, Dennis McGrane and I participated in a telephone call with Sheriff Joe Arpaio and Chief Hendershott. At that time Dennis McGrane explained that their office had given us no evidence or any records to support the court tower investigation. Although the subject of the court tower investigation was raised with us from time to time throughout our relationship with MCSO, no reports or any evidence was ever produced for this office and we never took any action with regard to this investigation.

June 16, 2010 Meeting with MCSO

On June 11, 2009, YCA Chief Deputy Dennis McGrane met with MCSO and was provided with summaries of their ongoing investigations. On June 16, 2009, my staff and I met with three representatives of MCSO at my office for approximately five hours. In attendance were Dennis McGrane and YCA Deputy Bill Hughes from my office, YCA Special Deputy Mel Bowers, MCSO Detective Brandon Luth, MCSO Detective Rich Johnson, and MCSO Captain Miller. At that time, we reviewed the summaries of the MCSO ongoing investigations and provided direction to MCSO with respect to each one. I have attached for you copies of the MCSO summaries of each investigation. All type-written material on the summaries is from MCSO and all hand-written notes are either mine or Dennis McGrane's.

1)

2)

3) "Bug Sweep"

This investigation was presented to us by Detective Johnson. MCSO requested grand jury subpoenas to Wes Balinger for contracts; to Fran McCarroll for records of MCBOS special meetings in December of 2008; to David Smith for emails and correspondence between Irvine and counsel for the vendors; and to Stephen Wetzel to testify at grand jury. We indicated to MCSO that the conduct, as explained to us, was not criminal. Dennis McGrane did agree to seek from attorney Ed Novak a copy of the letter by Maricopa County authorizing the emergency use of funds to conduct the bug sweep. That letter was obtained and later provided to MCSO.

On June 17, 2009, Dennis McGrane and I participated in a telephone call with Sheriff Joe Arpaio and Chief Hendershott. At that time I explained to them that the "bug sweep" actions were not criminal and we would not pursue this matter any further.

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Legal Standard for Grand Jury Subpoenas

On August 24, 2009, Dennis McGrane sent a letter to Deputy Hendershott detailing the legal standard to obtain and issue grand jury subpoenas. On August 27, 2009, Deputy Hendershott sent a letter to Dennis McGrane expressing his disagreement on this issue. Copies of both letters are attached.

Please do not hesitate to contact me if you have any questions.

Very truly yours,



Sheila Sullivan Polk
Yavapai County Attorney

Attachments:

MCSO summaries of investigations
Letter from McGrane to Hendershott dated August 24, 2009
Letter from Hendershott to McGrane dated August 27, 2009
Letter from Polk to Thomas dated October 6, 2009